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A REPORT OF INTERIM ACTIVITY . . . MONTANA LEGISLATIVE COUNCIL . . . HELENA

December 1988

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Vol. VI No. 19

## Caucuses Approve Rules on Bill Drafting Limits

Two recommendations regarding limitations on bill drafting requests were presented by the Legislative Reorganization and Improvement Commission at the pre-session caucuses. All four caucuses approved the proposals. The Legislative Council has taken the position that the rules committees must direct implementation. Until further notice, members should anticipate limitations as proposed, including a slight modification to the first recommendation suggested in the House Democratic caucus. (This modification by the House Democrats suggested that only information sufficient to begin drafting would be required.) Further decisions on the matter await rules committee action. Confirmation of the decision will require adoption of appropriate rules during the session. The results of the poll on the first two questions as reported to the office of the Legislative Council are as follows:

1. Until December 5, 1988, legislators may request the drafting of any number of bills and resolutions so long as the request contains enough information to permit the bills or resolutions to be drafted.

Senate Republicans:

Approve 16 Disapprove 2 No Vote -

Senate Democrats:

Approve 16 Disapprove 7 No Vote -

House Democrats:

Approve 38 Disapprove 5 No Vote 1

House Republicans:

Approve 31 Disapprove 10 No Vote 0

2. After December 5, 1988, there will be available a bank of 1,050 drafting requests. This allows each legislator to request a minimum of seven bills and resolutions, at least two of which must be requested before the session convenes. If any legislator does not use his seven requests, they may be used by a legislator who has already requested seven bills and resolutions.

Senate Republicans:

Approve 17 Disapprove 3 No Vote -

Senate Democrats:

Approve 16 Disapprove 7 No Vote -

House Democrats:

Approve 36 Disapprove 8 No Vote 0

House Republicans:

Approve 28 Disapprove 13 No Vote 0

## Get Acquainted With Your Staff

### Agencies Are Ready to Help

All legislators but particularly those newly elected are encouraged to visit the Legislative staff agencies and meet the people that you will be working with during the 1989 session. They are

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PLEASE RETURN



Montana Legislative Council

your staff and are here to assist you in the difficult tasks ahead.

All the agencies are located in the Capitol and here is who they are and what they do:

Montana Legislative Council takes bill drafting requests, drafts bills, staffs committees, performs research, provides information, and performs payroll, purchasing, and accounting services. The research staff is in Room 140, the legal staff is in Room 117, the accounting staff is in Room 139, and the library is in Room 102. Bob Person is the Executive Director.

Office of the Legislative Fiscal Analyst staffs the House Appropriations Committee and the Senate Finance and Claims Committee and all of their subcommittees. The LFA staff also does research and provides information primarily relating to fiscal matters. The offices are in Room 105 and Room 107. Judy Rippingale is the Legislative Fiscal Analyst.

Environmental Quality Council staffs the Natural Resources Committee in both the House and the Senate, takes bill drafting requests, drafts bills, and provides research and information primarily relating to natural resource and environmental issues. The EQC offices are in Room 106. Deborah Schmidt is the Executive Director.

Office of the Legislative Auditor performs financial compliance audits, program and performance audits, and electronic data processing audits. Although not directly involved in the legislative process, the OLA is available to do research and provide information on a wide range of subjects. Located in Room 135, Scott Seacat is the Legislative Auditor.

Among these offices and staffs, a broad range of information resources and services are available. If you have a question or need some independent, nonpartisan, nonpolitical information, rely on the legislative agencies. Their jobs are to help you do your job!

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## Legislative Reorganization and Improvement Commission

### *Commission Recommends Legislation*

The Legislative Reorganization and Improvement Commission (LRIC) held its final meeting on Nov. 4 and continued its deliberations on the reorganization of the legislative branch. The members agreed to recommend legislation which would authorize and empower the leadership of both houses to perform the following functions relating to the administration of legislative agencies:

- establish uniform employee classification, pay administration, and personnel policies for full-time and session employees of the legislative branch;

- establish procedures for accounting and payroll for the legislative branch;
- approval and submission of a unified budget for the legislative branch;
- recommend changes in law or rules necessary to improve the functioning and operation of the legislative branch; and
- coordinate and conflict resolution as among committees and/or staff agencies.

LRIC's final report was sent to members of the legislature and other interested persons. Members were encouraged to review those recommendations and be prepared to take action on them during the caucuses.

Extra copies of this report are available upon request from the Legislative Council.

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## Salute to Schools Program

### *Project's First Phase Completed*

The Salute to Schools committee has completed the first phase of its project. The committee, supported by the Legislative Council, the Montana Historical Society, Helena School District No. 1, and the Capitol City '89ers, has developed a centennial program to honor the students and staff of each school in the state during the upcoming legislative session.

The first phase involved the development of a booklet and teacher's manual for the study of the legislative process. The booklet entitled, The Montana Legislative Process: Instructions for Montana's Youth, has been printed and copies will be sent to every school in the state. The committee hopes that every school will take advantage of these materials so that students will develop a better understanding of the legislative process and their part in it.

### *Student Visitations Planned*

The second phase of the project involves encouraging schools to send students to attend the legislature during this Centennial year. Schools will be recognized on particular days and tours of the Capitol, the Historical Society, and other Helena attractions are available. Students attending the legislature will receive a souvenir to remember their experiences.

Schools are also encouraged to submit a one-page project dealing with the history of their particular area for the creation of a Montana sampler.

### *Committee Members*

Members of the Salute to Schools committee are Sen. Joe Mazurek, Rita Blouke, Sally Halverson, Jennifer Jeffries Thompson, Jan Cladouhos, and Jane Dibert.

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## Legislative Finance Committee

The Legislative Finance Committee met Nov. 17 and 18, when major items discussed were the K-12 Education Subcommittee report, the attorney general's opinion on the fire suppression budget amendment, and the supplementals.

### K-12 Education Subcommittee

The report of the K-12 Subcommittee on HJR 16 was presented to the Legislative Finance Committee on Nov. 17. Recommendations were:

- the quantitative portions of the Board of Public Education's proposed accreditation standards, as amended and as phased in, will be used as the cost basis in the development of the equalization schedules;
- retirement costs will be included in the general fund and covered by the general equalization plan while comprehensive insurance, transportation, building, and debt service costs will not be included in the general equalization plan at this time;
- a new dimension will be added to the equalization plan to allow consideration of teacher experience levels in determining the district equalization funding;
- the current system of funding special education will be continued for the present;
- equalization aid distribution, other than for special education, will be based on ANB;
- the cost of providing education will be equalized by setting the foundation at 100% of the scheduled cost of complying with proposed accreditation standards with retirement, and allowing districts to spend up to 25% over this amount with a vote. The first 10% of the voted 25% would be power equalized at \$100 per ANB per mill. The remaining 15% would be unequalized;
- those districts whose budgets exceed 125% of scheduled amount will be allowed 4 years to make equal reductions in their budgets to bring them within the expenditure limitation; and
- P.L. 81-874 funds will be included as resources for equalization.

These recommendations were adopted by the Legislative Finance Committee.

### Attorney General's Opinion on the Fire Suppression Budget Amendment

The Attorney General's opinion concerning the \$11.5 million budget amendment approved by the executive branch to pay fire suppression costs held:

- A disaster or emergency must be declared by the Governor before expenses may be incurred under Section 10-3-312, MCA.
- If a disaster is declared by the Governor under Title 10, Chapter 3, MCA, the \$1 million statutory appropriation provided for in Section 10-3-312, MCA, need not be expended before any other funds may be used for expenses associated with the disaster.
- The budget amendment process was not intended to permit a loan from the state's general fund, where the only anticipated revenue for repayment is the possibility of a subsequent appropriation of funds from the general fund.
- Reliance on the possibility of a supplemental appropriation sometime in the future does not meet the reasonable-evidence-of-future-income requirement of the interaccount loan statute.

### Supplementals

The executive branch summarized the agencies' supplemental requests at \$15,753,576 of general fund and \$589,576 of other funds. The four largest supplementals were \$11.5 million for fire suppression; \$2.5 million for SRS; \$1.1 million for the university system; and \$0.4 million for institutions.

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## Environmental Quality Council

### Final Meeting Dec. 9

The Environmental Quality Council will hold its last scheduled meeting of the interim on Friday, Dec. 9, in Room 104 of the Capitol. The meeting will begin at 9 a.m. with Howard Johnson briefly presenting the recommendations of the Governor's Clark Fork Basin Project.

### Forest Practices and Watershed Effects

The agenda then shifts to House Joint Resolution 49, EQC's interim study of forest practices and watershed effects. The session will include Council discussion of the HJR 49 draft report, a summary of written comments received on the report, an opportunity for oral public comment, and consideration of response options. Following a lunch break, EQC members will reconvene to develop recommendations to the 1989 Legislature.

The HJR 49 draft report, completed on Nov. 7, details the study findings on the effects of logging on Montana watersheds and presents the results of a series of 38 timber sale audits conducted during the summer of 1988. The audits revealed that a large majority of individual forest practices were being properly applied; however, more than half of the timber sales exhibited at least one practice

causing major detrimental water quality effects. Management practices in streamside zones were rated as the most damaging.

The HJR 49 report also reviewed programs promoting the use of forestry best management practices in Montana and other states, as directed by HJR 49. The report cited a number of weaknesses in Montana's program, including the virtual absence of state oversight of private forest practices and a very limited program of technical assistance.

The report frames a variety of options to improve the conduct of forest practices in Montana. Some options relate to a voluntary program, while others include regulatory elements common to forest practice acts in neighboring states. EQC members will consider these options in developing final study recommendations.

### *Other Legislative Proposals*

Following the HJR 49 session, representatives of Montana natural resource agencies will give presentations on legislative proposals developed for consideration by the 1989 Legislature.

### *Reports Available*

HJR 49: Forest Practices and Watershed Effects, Draft Report Hazardous Waste Management Issues for the 1989 Legislature.

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## **Water Policy Committee**

### *Final Recommendations*

The Water Policy Committee is making final recommendations concerning several water policy areas, including the water rights adjudication process, the state water plan, water development, water data and research, and water transfers.

The area that received the most attention this interim was the water rights adjudication process. The Denver law firm of Saunders, Snyder, Ross & Dickson, P.C. was hired to evaluate the process. In its final report to the committee, the consultants state that the adjudication process is not "so grievously flawed as to require a massive legislative overhaul." Moreover, the report concludes that "with some minor legislative fine tuning" the adjudication process now in place can bring about the results intended by the Legislature when it passed Senate Bill 76 in 1979.

### *Six Bills Proposed*

The proposed legislative changes are presented as six bills. These proposals include:

1. renouncing and reopening temporary preliminary and preliminary decrees for objections by persons outside the subbasin at issue;
2. allowing administration of water rights based on temporary preliminary and preliminary decrees;

3. modifying the change in appropriation right statute to require department approval of changes to diversion facilities. The latter proposal is suggested as a way to limit any inflated claims that are contained in a final decree.

The remaining bills propose other procedural changes.

These proposals, along with other substantive findings made by the consultants, are being reviewed and evaluated by the committee.

### *Other Recommendations*

The committee's recommendations on the adjudication study and concerning the other study topics are contained in the final report, which will be available in mid-December, and copies will be sent to all legislators.

In addition to the adjudication study, the committee has made several recommendations on other substantive areas. Of particular interest to legislators and water users are those proposals dealing with the state water plan and facilitating water transfers. The committee will finalize its recommendations at its meeting Dec. 2 and at a follow-up meeting on the state water plan legislative recommendations to be held during the first days of the session.

### *Reports available:*

- Final report of Saunders, et al. to the Water Policy Committee on the Adjudication Process
- Report of the Water Policy Committee to the 51st Legislature

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## **Joint Interim Subcommittee on Basic Education**

### *Regents' Rule Unapproved*

The Joint Interim Subcommittee on Basic Education met Nov. 16 to make final recommendations to the joint meeting of the HJR 16 participants on Nov. 17. The Subcommittee reviewed the final report of the K-12 Education Subcommittee of the Legislative Finance Committee and recent and pending action of the Board of Public Education with regard to proposed accreditation standards. The Subcommittee discussed various approaches to defining a "basic system of education": one based on the Board of Regents' mandated college preparatory requirements; and one based on the proposed accreditation standards as the instructional portion of a basic system. A motion to adopt the Regents' requirement as "basic education" failed to win approval in a tie vote.

## *Joint Meeting Conducted*

The Joint Interim Subcommittee on Basic Education, the Legislative Finance Committee, and the Board of Public Education met Nov. 17, to recommend to the 51st Legislature a definition of a basic system of education and methods of equitably funding such a system. The Board reported that on Dec. 1 and 2 in Great Falls it would review the testimony heard at the two public hearings in November on the proposed accreditation standards and would decide whether to adopt some or all of Project Excellence into rules. The Board may delay final action on any rules which are determined to have "substantial fiscal impact" until the 51st Legislature has time to review them. The Board also recommended that the accreditation standards be the instructional portion of a definition of a basic system.

## *LFA Cost and Funding Proposal Approved*

Senator Pat Regan, chairperson of the K-12 Subcommittee, recommended that the joint meeting accept the final LFA cost and funding report dated Nov. 11 and submit the report to the 51st Legislature. The motion was successful and will be clarified by an explanation that the joint meeting is merely submitting the report for consideration by the Legislature.

## *Instructional Definition Supported*

Senator Blaylock moved that the joint meeting recommend that the instructional portion of a definition of a basic system of education be the accreditation standards adopted by the Board, whether the current standards remain or the Board adopts the proposed standards. The motion was successful on a 14-8 vote. The joint meeting discussed an amendment that any standards which would be part of a definition be approved by the legislature, but the motion by Representative Mercer was withdrawn.

The minutes of the two meetings are available and a final report of the Joint Interim Subcommittee on Basic Education summarizing the HJR 16 activities will be available prior to the opening of the 51st Legislature.

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## **Legislative Council**

### *Interim Study Final Reports Available*

The final reports of the studies conducted by legislative committees during the 1987-88 interim will be available to legislators upon request. If a legislator wants a copy of the report of a particular study, he or she should contact the Legislative Council office.

## *Annotations*

The last of four installments of annotation updates are due to be shipped to the printer the first week of January in order to avoid the Christmas mailing crush.

## *Legal Memos*

- Legislative Review of Accreditation Standards
- Limits on Legislative Assignment of Interim Studies

## *Bill Drafts*

The Legislative Council bill drafting system is in full operation. The council is using a new method of drafting involving the use of personal computers by drafters. Remember that when you submit a bill drafting request the following information is immediately available to the public:

Your Name; A brief description of the bill (short title); and the Legislative Council drafter.

The council had received 577 bill drafting requests by Nov. 30 compared with 373 bill draft requests by the same date in 1986. Hopefully legislators are getting drafts in early to expedite session work. If you are sent a draft copy of a bill for comment or approval, please respond to the drafter as quickly as possible. Your timely response will enable the council staff to complete work on that draft and have more time available for other projects. Getting legislation ready for introduction is a team effort in which the legislator is the key component. A timely review of and response to council drafts will enable the session to begin work sooner and allow more time for committee and floor activities.

## *Research Memorandum*

- Potential Work Task Overlap Among Montana's Legislative Statutory Committees and Staff Agencies

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## **Committee on Indian Affairs**

### *Final Meeting*

The Committee on Indian Affairs met for the last time during the 1987-1988 interim on Nov. 18. Committee members heard a year-end report from Bea Lunda, Indian Child Welfare Specialist. John North, chief legal counsel to Governor Schweinden, reported on the Western Governors' Association State-Tribal Relations Project. Senator Jack Galt presented the annual report from the Reserved Water Rights Compact Commission.

Mike Hutchin and Jim Halvorson of the Montana Reservation Counties Association asked the committee to sponsor two bills:

- a joint resolution calling on Congress to define the governmental powers of Indian tribes; and
- a proposal to create an office of state coordinator of reservation county affairs.

Representatives from the Blackfeet, Northern Cheyenne, and Confederated Salish-Kootenai tribes asked the committee to sponsor legislation protecting the ancient burial sites and artifacts of Indian tribes in Montana.

Rene Dubay from the Commissioner of Higher Education's Office asked the committee's support for a grant proposal she is preparing to develop a data base on Indian students in Montana schools. This is part of the Indian education study that the committee has been working on with the Commissioner's office.

The committee also heard from Donald L. Clayborn, State Coordinator of Indian Affairs, who spoke on a number of topics, including the Indian gaming regulatory legislation recently passed by Congress, Senate Bill No. 47 from the 1987 legislative session, and the Montana Aging Policy Study.

Representatives from All Citizens' Equal also attended the meeting and addressed the committee on a number of issues.

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## Coal Tax Oversight Subcommittee

### *Resolutions Approved*

The Coal Tax Oversight Subcommittee met for the last time during the 1987-88 interim on Nov. 18 when it approved drafts of three resolutions:

- requesting sufficient funding to the Coal Board to support the functions of the Eastern Coal Counties Task Force and to continue participation in the funding of the Rosebud Conservation District Ground Water Monitoring Project;
- urging that mitigation of coal area impacts retain priority for coal severance tax funds and that the Coal Board participate in the administration and implementation of any statewide infrastructure assistance program; and
- urging recognition of the challenge posed to Montana's coal industry by federal acid rain legislation and of the need to support the magnetohydrodynamics program and the development of clean coal technology and recommending those subjects for study during the next biennium.

### *Governor's Proposal Opposed*

The Subcommittee approved drafting of a letter to the Governor-Elect expressing the member's opposition to the proposal in the governor's budget to divert most of the local impact allocation to the

school foundation program because that action would deprive the Coal Board of the funds necessary to complete its essential projects for impact mitigation in the coal mining area of southeastern Montana and urging continuation of the Coal Board's programs.

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## Revenue Oversight Committee

### *DOR Legislative Proposals Received*

During its meeting on Nov. 20 and 21, the Revenue Oversight Committee (ROC) received requests from the Department of Revenue (DOR) for bills on these subjects:

- From the Income and Miscellaneous Tax Division: Exclude tax-based obligations from exclusion in execution for judgment; continuing levy until satisfied; clarifying conditions payment of taxes; enforcing payment of delinquent inheritance/estate taxes; authorizing estimation of unclaimed property liability; simplifying elderly homeowner/renter credit and coordinating with local tax relief program; standardizing filing requirements between IRS and the State; standardizing withholding statement deadline; and standardizing deposit requirements for inheritance tax collections.
- From the Property Tax Division: Extending reappraisal deadline two years; proration of personal property; defining "coal and ore haulers"; and revising valuation of swine.
- From the Natural Resource and Corporation Tax Division: Changing Resource Indemnity Trust Tax from quarterly to annual filing; changing metalliferous mines tax to annual; removing Indian royalties from taxable gross value; and repealing reduction of deduction based on excluded income.
- From the Motors Fuels Tax Division: Allowing Montana to join the Interstate Fuel Tax Agreement; defining bulk storage; and issuing a continuing license to gasoline dealers.
- From the Investigations and Enforcement Division: NAFDC cases to have equal status to AFDC; expediting paternity determination; establishing an expedited process for child support orders; providing the department with post-AFDC authority; shortening time schedules related to expedited processes; establishing a central registry for interstate child support cases; and allowing DOR investigators to serve welfare fraud warrants.

### *Revenue Estimating Authority Bill Requested*

ROC requested drafting of a bill to designate ROC as the committee responsible for preparing revenue estimates for the Legislature.

### *Coal Sales Value Rule Disapproved*

A proposed DOR rule change in regard to valuing certain coal for severance tax purposes found no support in ROC, which requested DOR to refrain from adopting the rule until ROC or the Legislature could more closely examine the impact of the rule on the coal industry.

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## **Legislative Audit Committee**

At its meeting on Dec. 5, 1988, the Audit Committee was scheduled to review the following reports:

### *Financial-Compliance*

- Department of Commerce, Board of Investments
- Department of Public Service Regulation

### *Contract*

- Miles Community College
- Dawson Community College
- Department of Administration, Employee Group Benefits Plan
- Montana Lottery and Lottery Observations
- Montana Board of Housing

Copies of reports are available from the Legislative Auditor's Office, Room 135, State Capitol, Helena, MT 59620, 444-3122.

# December

Sunday

Monday

Tuesday

Wednesday

Thursday

Friday

Saturday

All Meetings Subject to Change!

|                 |                                     |                                        |                                      |    |                     |    |  |
|-----------------|-------------------------------------|----------------------------------------|--------------------------------------|----|---------------------|----|--|
| 4               | 5<br>Leg. Audit<br>Comm.<br>Rm. 104 | 6                                      | 7                                    | 8  | 9<br>EQC<br>Rm. 104 | 10 |  |
| 11              | 12                                  | 13<br>Joint Rules<br>Rm. 104<br>1 p.m. | 14<br>Senate Leg.<br>Adm.<br>Rm. 108 | 15 | 16                  | 17 |  |
| 18              | 19                                  | 20                                     | 21                                   | 22 | 23                  | 24 |  |
| 25<br>Christmas | 26<br>Holiday                       | 27                                     | 28                                   | 29 | 30                  | 31 |  |

Fifty-First Legislative Session Begins January 2!



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